

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHARLES LANGONE, as FUND MANAGER)
of the NEW ENGLAND TEAMSTERS AND)
TRUCKING INDUSTRY PENSION FUND,)
)
Plaintiff,)
)
v.)
)
THE 357 CORP.)
)
Defendant.)
_____)

C.A. No. 04cv11454 GAO

**MOTION FOR PARTIAL SUMMARY JUDGMENT ON COUNT II OF THE
COMPLAINT**

Now comes the Plaintiff Charles Langone and the Trustees of the New England Teamsters and Trucking Industry Pension Fund and moves this court to enter a partial summary judgment on Count II of the Complaint in favor of the Plaintiff in the above captioned matter pursuant to Rule 56 of the Federal Rules of Civil Procedure. Plaintiff relies for this motion upon the attached Memorandum of Law, Statement of Undisputed Facts and Affidavit of Catherine M. Campbell.

Dated: January 14, 2005

Respectfully submitted,

/s/Catherine M. Campbell
Catherine M. Campbell
BBO #549397
FEINBERG, CAMPBELL & ZACK, P.C.
177 Milk Street
Boston, MA 02109
(617) 338-1976

Certificate of Service

I, Catherine M. Campbell, hereby certify that I caused a copy of the foregoing to be mailed this day by U.S. first-class mail to Geoffrey P. Wermuth, Esq., Murphy, Hesse, Toomey & Lehane, LLP, World Trade Center East, Two Seaport Lane, Boston, MA 02210.

Date: January 14, 2005

/s/Catherine M. Campbell
Catherine M. Campbell

Certificate of Rule 7.1 Conference

I, Catherine M. Campbell, counsel for defendants in the above-captioned matter, hereby certify that I have attempted to confer with counsel for the plaintiffs in the above-captioned matter and attempted in good faith to resolve or narrow the issues in the present matter at this time.

Date: January 14, 2005

/s/Catherine M. Campbell
Catherine M. Campbell